

APPEAL NO. 031987
FILED SEPTEMBER 10, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 2, 2003. The hearing officer resolved the disputed issue by deciding that the appellant's (claimant) _____, compensable injury does not extend to and include a fracture of the third metacarpal of the right hand. The claimant appealed on sufficiency of the evidence grounds. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury on _____, to his low back and neck when he fell backwards at work. At issue was whether the compensable injury of _____, extends to and includes a fracture of the third metacarpal of the right hand. The claimant contends that the muscle spasms and radiculopathy resulting from the _____, compensable injury caused him to fall in January of 2003 and fracture his right hand. The disputed issue of extent of injury is a question of fact for the hearing officer to resolve. The hearing officer was not persuaded that the hand injury was a consequence that naturally flows from his compensable injury. We note that the Appeals Panel has rejected the concept that brings within the ambit of compensability every consequence that arguably may not have occurred "but for" the original compensable injury and has said that, though an injury may affect a person's resistance, it will not mean that a subsequent injury outside the workplace is compensable. See Texas Workers' Compensation Commission Appeal No. 950524, decided May 19, 1995.

Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the challenged findings of the hearing officer.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge